

## CONGRESSIONAL RECORD SUMMARY

Thursday, July 25, 2002, Part I

*Incomplete Record of House Proceedings.*

*Today's House proceedings will be continued in the next issue of the Record.*

### SENATE

#### Measures Introduced:

S. 2791. A bill *to provide budget discipline and enforcement for fiscal year 2003 and beyond*; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

Domenici

Page S 7372

S. 2793. A bill to improve patient access to health care services and provide improved medical care *by reducing the excessive burden the liability system* places on the health care delivery system; to the Committee on the Judiciary.

Ensign

Page S 7372

S. 2794. *A bill to establish a Department of Homeland Security, and for other purposes; to the Committee on Governmental Affairs.*

Gramm

Page S 7372

S. 2798. *A bill to protect employees and retirees from corporate practices that deprive them of their earnings and retirement savings when a business files for bankruptcy under title 11, United States Code; to the Committee on the Judiciary.*

Durbin

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#### Measures Reported:

S. 2797, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2003. (S. Rept. No. 107-222).

S. 2801, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003. (S. Rept. No. 107-223).

Pages S 7371, D 825

#### H.R. 3210 - Terrorism Risk Protection Act:

*Senate passed H.R. 3210, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, after striking all after the enacting clause and inserting in lieu thereof the text of S. 2600, Senate companion measure, as passed the Senate on June 18, 2002.*

Pages S 7332, D 825

**Senate insisted on its amendment, requested a conference with the House thereon,** and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Sarbanes, Dodd, Reed, Schumer, Gramm, Shelby, and Enzi.

Pages S 7332, D 825

**H.R. 5121 - Legislative Branch Appropriations:**

***By 85 yeas to 14 nays (Vote No. 191), Senate passed H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, after inserting the text of S. 2720, Senate committee-reported bill, and after taking action on the following amendments proposed thereto:***  
*Pages S 7336-42, S 7350, D 825*

**Adopted:**

***Durbin/Bennett Amendment No. 4319***, making certain technical corrections.  
*Pages S 7337, D 825*

***Durbin/Bennett Amendment No. 4320***, to modify provisions relating to the Capitol Police.  
*Pages S 7339, D 825*

**Senate insisted on its amendments, requested a conference with the House thereon**, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Durbin, Johnson, Reed, Byrd, Bennett, Stevens, and Cochran.

*Pages S 7350, D 825*

**S. 812 - Greater Access to Affordable Pharmaceuticals Act:**

***Senate continued consideration of S. 812***, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, taking action on the following amendments proposed thereto:  
*Pages S 7327-36, S 7350, D 826*

*"... As has been stated by many during this debate, a pioneer drug patent holder, whose patents are under challenge by a generic drug manufacturer, is accorded an automatic 30-month stay. This was not some giveaway to the innovator pharmaceutical industry. We inserted this mechanism **to protect the intellectual property of companies that develop patented medications**, companies, I might add, that were going to be afforded less intellectual property protections than any other industry as part of the 1984 law. We knowingly added this provision because we wanted to give them a fair opportunity to defend their patents. **We know that patent litigation is itself a risky endeavor with the federal circuit court overturning about 40 percent of the trial court decisions in some areas of patent law. The public policy purpose for this stay is to allow time for the courts to determine the status of validity of drug patents and/or to decide whether valid patents are, or are not, infringed by a generic drug challenger.** That was the intent of the law. Many believe--and I share that view-- that the 30-month stay provision has come to present problems in two areas: First, later issued patents that trigger last minute 30-month stays; and, second, multiple uses of the 30-month stay provision in a consecutive, over-lapping manner that work to bar generic competition for as long as the litigation can be made to drag on by lawyers who are paid by the hour..." (Hatch, page S 7344)*

**Adopted:**

***Reid (for Dorgan) Amendment No. 4299***, to permit commercial importation of prescription drugs from Canada.

*Pages S 7327-36, D 826*

**A unanimous-consent agreement** was reached providing for further consideration of the bill on Friday, July 26, 2002, with Senator Gregg or his designee being recognized to offer a second degree amendment.  
*Page S 7365, D 826*

**H.R. 3763 - Corporate and Auditing Accountability, Responsibility, and Transparency Act Conference Report:**

**By a unanimous vote of 99 yeas (Vote No. 192), Senate agreed to the conference report on H.R. 3763**, to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, clearing the measure for the President.

*Pages S 7350-65, D 826*

**Nomination/Greater Access to Affordable Pharmaceuticals Act--Agreement:**

*A unanimous-consent agreement was reached providing that immediately after the cloture vote on the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit, all time post cloture be considered used, and that on Monday, July 29, at 5:30 p.m., the Senate proceed to Executive Session to vote on the nomination, that upon confirmation, the President be immediately notified of the Senate's action, and the Senate return to Legislative Session; further that on Friday, July 26, immediately following the cloture vote on the nomination, the Senate return to Legislative Session and resume consideration of S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, and Senator Gregg or his designee be recognized to offer a second degree amendment; that during Friday's session, there be up to 3 hours for debate with respect to the amendment, with the time equally divided and controlled between Senators Kennedy and Gregg or their designees; that whenever the Senate resumes consideration of S. 812, the Gregg or designee amendment remain debatable.*

*Pages S 7365, D 826*

**Nomination--Agreement:**

*A unanimous-consent agreement was reached providing for the consideration of the nomination of Christopher C. Conner, to be United States District Judge for the Middle District of Pennsylvania, The Judiciary, on Friday, July 26, 2002, with a vote to occur thereon, following the cloture vote on the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.*

*Pages S 7366, S 7384, D 826*

**Nominations Confirmed:**

**Senate confirmed the following nominations:**

*Paul A. Quander, Jr., of the District of Columbia, to be Director of the District of Columbia Offender Supervision, Defender, and Courts Services Agency for a term of six years. (New Position)*

*Page D 826*

*Roslynn R. Mauskopf, of New York, to be United States Attorney for the Eastern District of New York for the term of four years.*

*Todd Walther Dillard, of Maryland, to be United States Marshal for the Superior Court of the District of Columbia for the term of four years. (Reappointment)*

*Robert R. Rigsby, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.*

*David William Thomas, of Delaware, to be United States Marshal for the District of Delaware for the term of four years.*

*Thomas M. Fitzgerald, of Pennsylvania, to be United States Marshal for the Western District of Pennsylvania for the term of four years.*

*G. Wayne Pike, of Virginia, to be United States Marshal for the Western District of Virginia for the term of four years.*

*Steven D. Deatherage, of Illinois, to be United States Marshal for the Central District of Illinois for the term of four years.*

*Pages S 7383-84, S 7389, D 827*

**Nominations Received:**

**Senate received the following nominations:**

*Jeffrey S. White, of California, to be United States District Judge for the Northern District of California, vice Charles E. Legge, Retired.*

*Kent A. Jordan, of Delaware, to be United States District Judge for the District of Delaware, vice Roderick R. McKelvie, Retired.*

*Sandra J. Feuerstein, of New York, to be United States District Judge for the Eastern District of New York, vice Thomas E. Platt, Jr., Retired.*

*Pages S 7384-89, D 827*

**Committee Meetings:**

**Committee on Appropriations: Committee ordered favorably reported the following bills:**

An original bill (S. 2797) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2003;

An original bill (S. 2801) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003;

*An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2003; and*

*An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2003.*

*Page D 827*

**Committee on Commerce, Science, and Transportation:** *Committee held hearings to examine the Transportation Security Administration and aviation security transition, focusing on the deployment of baggage screening equipment, cockpit security, and air cargo security.*

*Page D 828*

**Committee on the Judiciary:** *Committee concluded oversight hearings to examine Department of Justice issues, including its ability to mobilize law enforcement resources and the justice system in order to prevent future terrorist attacks on the United States and its citizens, the nation's murder and crime rate, counter-terrorism efforts and budget requests, background checks, visa requirements, and Civil Rights interests, receiving testimony from John D. Ashcroft, Attorney General, Department of Justice.*

*Page D 829*

**HOUSE**

**Report Filed:**

**Report was filed today as follows:**

**H. Res. 502, providing for consideration of H.R. 5005, to establish the Department of Homeland Security (House Report 107-615).**

*Page D 830, See next issue*

**H.R. 3763. Corporate and Auditing Accountability, Responsibility, and Transparency Act Conference Report:**

*The House agreed to the conference report on H.R. 3763, Corporate and Auditing Accountability, Responsibility, and Transparency Act by a yea-and-nay vote of 423 yeas to 3 nays, Roll No. 348. The conference report was considered pursuant to the order of the House of Wednesday, July 24.*

*Pages H 5462-80, D 830*

**Suspension—H.R. 4946, Improving Access to Long-Term Care:**

*The House agreed to suspend the rules and pass H.R. 4946, amended, to amend the Internal Revenue Code to provide health care incentives related to long-term care by a yea-and-nay vote of 362 yeas to 61 nays, Roll No. 351. Agreed to amend the title so as to read “A bill to amend the Internal Revenue Code of 1986 to provide health care incentives.” The motion was debated on July 23.*

*Pages H 5608-9, D 831*

**Party Designation:**

*Read a letter from Representative Goode wherein he requested that his party designation be changed to Republican on all official publications and databases of the House of Representatives, effective August 1, 2002.*

*Pages H 5621, D 831*

**H.R. 5005. Homeland Security Act:**

*The House completed general debate and began considering amendments to H.R. 5005, to establish the Department of Homeland Security.*

*Page D 831, See next issue*

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Select Committee on Homeland Security now printed in the bill (H. Rept. 107-609, Part 1) was considered as an original bill for the purpose of amendment.

*Page D 831, See next issue*

**Agreed To:**

*Cox Amendment No. 4* printed in H. Rept. 107-615 that clarifies that the Department of Homeland Security is responsible for cybersecurity and protection of its infrastructure;

*Page D 831, See next issue*

*Woolsey Amendment No. 7* printed in H. Rept. 107-615 that establishes a Homeland Security Institute as a research and development center;

*Page D 831, See next issue*

*Ose Amendment No. 10* printed in H. Rept. 107-615 that requires a plan within one year to consolidate and co-locate regional and field offices in each of the cities with existing offices transferred to the Department of Homeland Security;

*Page D 831, See next issue*

*Hastings of Florida Amendment No. 12* printed in H. Rept. 107-615 that directs the Secretary to comply with laws protecting equal employment opportunity and providing whistleblower protections;

*Page D 831, See next issue*

*Kingston Amendment No. 13* printed in H. Rept. 107-615 that ensures that if the Federal Law Enforcement Training Center is transferred to the Department of Justice, the Department of Justice will not alter the operations of the center;

*Page D 831, See next issue*

**H.R. 5005. Homeland Security Act:**

**Rush Amendment No. 15** printed in H. Rept. 107-615 that establishes an office for state and local government coordination; and

*Page D 831, See next issue*

**Shays Amendment No. 16** printed in H. Rept. 107-615 that requires biennial reports to Congress on the status of homeland security preparedness, including an assessment for each state, and a report within one year of enactment that assesses the progress of the Department in implementing the Act to ensure that core functions of each entity transferred to the Department are maintained and strengthened and recommending any conforming changes in law necessary to the further implementation of the Act.

*Page D 832, See next issue*

**Amendments Offered and Further Proceedings Postponed Until Friday, July 26:**

**Cardin Amendment No. 8** printed in H. Rept. 107-615 that preserves the Customs Service as a distinct entity within the Department of Homeland Security; and

*Page D 832, See next issue*

**Rogers of Kentucky Amendment No. 14** printed in H. Rept. 107-615 that gives permissive authority to the Secretary to establish and operate a permanent Joint Interagency Homeland Security Task Force.

*Page D 832, See next issue*

**Agreed to H. Res. 502**, the rule that provided for consideration of the bill by voice vote. Earlier, agreed to consider the resolution by unanimous consent.

*Pages H 5621-31, D 832*

**Committee Meetings:**

**Committee on Energy and Commerce:** Subcommittee on Health held a hearing entitled “Examining Prescription Drug Reimportation: a Review of a Proposal to Allow Third Parties to Reimport Prescription Drugs.”

*Page D 832*

### Committee Meetings (Cont.):

**Committee on Rules:** Granted, by voice vote, a structured rule providing 90 minutes of debate on **H.R. 5005, Homeland Security Act of 2002**. The rule waives all points of order against consideration of the bill. The rule provides that the amendment in the nature of a substitute recommended by the Select Committee on Homeland Security now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the bill, as amended. The rule provides that no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the Rules Committee report accompanying the resolution and amendments en bloc described in section 3 of the resolution. The rule provides that each amendment printed in the report may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole, except as specified in section 4 of the resolution. The rule waives all points of order against the amendments printed in the report or amendments en bloc described in section 3 of the resolution. The rule provides that it shall be in order at any time for the chairman of the Select Committee on Homeland Security or his designee to offer amendments en bloc consisting of amendments printed in the report not earlier disposed of or germane modifications of any such amendment. The rule provides that amendments en bloc offered pursuant to the rule shall be considered as read (except that modifications shall be reported), shall be debatable for 20 minutes equally divided and controlled by the chairman and ranking minority member of the Select Committee on Homeland Security or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule provides that for the purpose of inclusion in such amendments en bloc, an amendment printed in the form of a motion to strike may be modified to the form of a germane perfecting amendment to the text originally proposed to be stricken. The rule provides that the original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc. The rule provides that the Chairman of the Committee of the Whole may recognize for consideration of any amendment printed in the report out of the order printed, but not sooner than one hour after the chairman of the Select Committee on Homeland Security or his designee announces from the floor a request to that effect. Finally, the rule provides one motion to recommit with or without instructions.

*Pages D 833-4*

**Committee on Ways and Means:** Subcommittee on Human Resources held a hearing on fraud and abuse in the Supplemental Security Income (SSI) program.

*Page D 834*

### Committee Meetings For Friday, July 26, 2002:

**Committee on Government Reform,** @ 10:00 a.m. Subcommittee on Criminal Justice, Drug Policy, and Human Resources, to mark up a report entitled "**Federal Law Enforcement at the Borders and Ports of Entry: Challenges and Solutions;**" followed by a hearing on "**Impact of Potential Restrictions on Anti-Drug Media Campaign Contractors.**" 2203 Rayburn.

**Committee on Rules:** @ 8:00 a.m. **Emergency meeting to consider the following: Conference report to accompany H.R. 333, Bankruptcy Reform; a resolution providing for same day consideration of certain measures; and a resolution making suspensions in order on Sept. 4, 2002 (legislative day of Thursday, July 25), H-313 Capitol.**

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**Next SENATE MEETING: Friday, 9:55 a.m., July 26, 2002.**

**Next HOUSE MEETING: Friday, 9:00 a.m., July 26, 2002.**

**OLA: S. Schwarz, A. Santos**